REMARKS

Claims 1 – 21 are in the application. Claims 1 – 3, 7, 12, 13, 15, 17, 18, and 21 are currently amended; claim 16 is canceled; and claims 4 – 6, 8 – 11, 14, 19, and 20 remain unchanged from the original versions thereof.

Claims 1, 8, 13, 18, and 21 are the independent claims herein.

No new matter has been added to the application as a result of the amendments submitted herewith. Reconsideration and further examination are respectfully requested.

Claim Rejections – 35 USC § 112

Claims 2, 3, 7, 12, and 17 were rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention for containing the "undefined terms": CurrentNbChannel, CurrentCPUUtil, NbChannel, MaxCPUUtil.

In reply to the rejection under 35 USC 112, second paragraph, claims 2, 3, 7, 12, and 17 are currently amended to delete the terms cited in the Office Action. Furthermore, support for the claim amendments is found in the Specification at paragraphs [0027] - [0028] and [0031] – 0032].

Accordingly, Applicant respectfully submits that claims 2, 3, 7, 12, and 17 overcome the rejection thereof under 35 USC 112, second paragraph and requests the reconsideration and withdrawal of the rejection.

Claim Rejections – 35 USC § 102

Claims 1 – 21 were rejected under 35 U.S.C. 102(e) as being anticipated by Shaffer et al., U.S. Patent No. 6,976,055 (hereinafter, Shaffer). This rejection is traversed.

Applicant notes that claim 1 is related to a method that includes determining, for each of a plurality of media processors under control of a multipoint controller, a number of additional participants that can be supported; and determining one of the plurality of media processors to host the new conference based, at least in part, on the number of additional participants that each of the plurality of media processors can support and a current CPU utilization percentage for each of the plurality of media processors. Thus, it is clear that the operation of determining which of the media processors is to host the new conference is based, at least in part, on the number of additional participants that each of the plurality of media processors can support and a current CPU utilization percentage for each of the plurality of media processors. Claims 8, 13, 18, and 21 are, in relevant part, worded similar to claim 1.

As discussed in the Specification, Applicant's claimed invention does not select a media processor to host a conference based solely on the number of participants hosted by the available media processors, as done previously. Such an approach fails to consider, recognize, or account for the different capabilities and resources that may be associated with the plurality of media processors under the control of a multipoint controller.

Applicant notes however that the cited and relied upon Shaffer discloses an apparatus and method for conducting a transfer of a conference call that does in fact rely exclusively on the number of participants associated with a media processor. Shaffer discloses,

> In one embodiment, <u>media processors 40 in call resources 16 and 18 may conduct a conference call having a maximum of six participants.</u> Clients 22 and 24a may initiate a first conference call on call resource 16. Processing module 50 determines that media processor 40a in call resource 16 may conduct the conference call <u>since the number of participants is below six</u>. If three or less clients on another network coupled to network 20 initiate a second conference call on call resource 16, processing module 50 may direct the conference call to media processor 40a in call resource 16. For example, processing module 50 may determine that media processor 40a in call resource 16 may conduct the second conference call if the first conference call has been in session for a maximum amount of time, e.g., approximately ten minutes, and <u>there is a low probability of expanding the number of participants in the first</u>

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conference call. Processing module 50, therefore, may provide efficient utilization of media processors 40 in call resources 16 and 18 when multiple conference calls are being conducted over network 20. (See Schaffer, col. 8, In. 61 – col. 9, In 13)

Thus, it is clear that Schaffer discloses, even where cited and relied upon by the Office, determining the media processors to host a conference call based solely on the number of participants in the conference call. Schaffer is silent regarding selecting the medial processor to host the conference call based on the resources of the media processor, including the current CPU utilization percentage of the media processor. Schaffer therefore fails to disclose (or even suggest) the claimed determining one of the plurality of media processors to host the new conference based, at least in part, on the number of additional participants that each of the plurality of media processors can support and *a current CPU utilization percentage* for each of the plurality of media processors.

Applicant further submits that the remaining entirety of Schaffer offers no additional relevant or compelling disclosure regarding the claims.

Applicant respectfully submits that claims 1, 8, 13, 18, and 21 are patentable over Schaffer under 35 USC 102(e) since Schaffer fails to disclose each and every aspect of the claims as configured and claimed. Applicant further submits that claims 2 – 7, 9 – 12, 14, 15, 17, 19, and 20 are also patentable over Schaffer for at least depending on a patentable base claim.

Accordingly, Applicant requests the reconsideration and withdrawal of the rejection of claims 1 – 21 under 35 USC 102(e). and the allowance of same.

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CONCLUSION

Accordingly, Applicants respectfully request allowance of the pending claims. If any issues remain, or if the Examiner has any further suggestions for expediting allowance of the present application, the Examiner is kindly invited to contact the undersigned via telephone at at (650) 694-5339.

Respectfully submitted,

4 Sept , 2007
Date
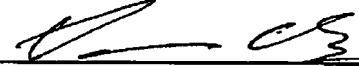
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